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California Corporations Commissioner
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Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE)	File Nos.: 603-4193; 603-4736; 603-5646; &
CALIFORNIA CORPORATIONS)	605-1810
COMMISSIONER,)	
)	SETTLEMENT AGREEMENT
Complainant,)	
)	
vs.)	
)	
GROWTH RESOURCE GROUP, INC.,)	
)	
Respondent.)	

This Settlement Agreement (“Settlement Agreement”) is entered into by and between the California Corporations Commissioner (“Commissioner”) and Growth Resource Group, Inc. (“Growth”) (hereinafter collectively “the Parties”).

RECITALS

This Settlement Agreement is made with reference to the following facts:

A. Growth is a corporation in good standing, duly formed and existing pursuant to the laws of the State of California, and authorized to conduct business in the State of California.

B. Growth is a finance lender/broker licensed by the Commissioner pursuant to the California Finance Lenders Law of the State of California (California Financial Code § 22000 et seq.) (“CFL”). Growth currently has 4 licenses issued under the CFL; license numbers 603-4193,

603-4736, 603-5646, and 605-1810. Growth currently has all its CFLL licenses parked at 26411 Via De Anza, #496, San Juan Capistrano, California 92675. Growth is not currently conducting any business under its CFLL licenses and has not been since at least November 2006.

C. Gladstone is the president of Growth and is authorized to enter into this Settlement Agreement on behalf of Growth.

D. In March 1999, the Parties entered into a settlement agreement, wherein Growth agreed to make refunds to certain of its customers, and to escheat to the State Controller all undelivered refunds.

E. On May 10, 2005, the Commissioner brought an administrative action against Growth seeking to revoke the CFLL licenses of Growth for failure to comply with the escheat provision of the March 1999 settlement agreement. A three-day hearing was held at the Office of Administrative Hearings in Los Angeles on April 24, 25 and 26, 2006 before Administrative Law Judge Eric Sawyer. On July 14, 2006, Administrative Law Judge Eric Sawyer issued a proposed decision suspending Growth’s CFLL licenses for a period of seven days and ordering Growth to escheat the undelivered refunds to the State Controller’s Office within 180 days. The Commissioner adopted the proposed decision on October 18, 2006, with an effective date of October 19, 2006 (“Decision”).

F. On May 30, 2007, the Commissioner brought the within administrative action against Growth seeking to revoke the CFLL licenses of Growth when over 180 days had elapsed since the effective date of the Decision and Growth had yet to escheat the undelivered refunds to the State Controller’s Office as ordered in the Decision (“May 30, 2007 Accusation”). Growth timely filed a notice of defense and the matter is currently scheduled to go to hearing on January 8, 2009. Growth has yet to escheat the undelivered refunds to the State Controller’s Office as ordered in the Decision.

G. On November 17, 2006, Growth filed a Writ of Administrative Mandamus regarding the Decision in the Los Angeles Superior Court (Case no. BS106158). On August 30, 2007, Los Angeles Superior Court Judge David Yaffe issued a final judgment denying the writ of administrative mandamus.

H. On September 17, 2007, Growth appealed the judgment denying the writ of administrative mandamus to the California Court of Appeal (Case no. B202359). On December 9,

1 2008, Division One of the California Court of Appeal, Second District issued its decision affirming
2 in full the judgment of the trial court denying the writ of administrative mandamus. Growth has
3 until January 20, 2009 to file for review of the Court of Appeal decision with the California Supreme
4 Court.

5 I. It is the intention and desire of the Parties to resolve all pending litigation between the
6 Parties.

7 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
8 forth herein, the Parties agree as follows:

9 **TERMS AND CONDITIONS**

10 1. This Settlement Agreement is entered into for the purpose of judicial economy and
11 expediency, and to avoid the expense of litigation, and possible further court proceedings.

12 2. Solely for the limited purposes of this proceeding and any future proceedings that
13 may be initiated by or brought before the Commissioner against Growth or any of its officers,
14 directors, and/or shareholders, Growth hereby admits the allegations contained in the May 30, 2007
15 Accusation. It is the intent and understanding between the parties that this Settlement Agreement,
16 and particularly Growth's admissions herein, shall not be binding or admissible against Growth or
17 any of its officers, directors, and/or shareholders in any action(s) brought against Growth or any of
18 its officers, directors, and/or shareholders in any action(s) by third parties.

19 3. Growth contends that compliance with the escheat provision of the Decision is
20 impossible in that the records necessary to determine which refunds remain undelivered are
21 unavailable due to having been lost, stolen, destroyed, and/or their whereabouts being otherwise
22 unknown.

23 4. The Commissioner disagrees with the contentions of Growth set forth in paragraph 3
24 above, and further contends that if such records are no longer available it is due to the neglect of
25 Growth and/or other action/inaction on the part of Growth.

26 5. Growth hereby stipulates to the issuance by the Commissioner of an order revoking
27 its CFLL licenses. The revocation order shall become effective upon the execution and delivery of
28 this Settlement Agreement. A true and correct copy of the revocation order is attached and

1 incorporated as Exhibit A.

2 6. Growth acknowledges its right to an administrative hearing under California
3 Financial Code section 22714 in connection with the revocations and hereby waives its right to a
4 hearing, and to any reconsideration, appeal, or other rights which may be afforded pursuant to the
5 CFLL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any
6 other provision of law in connection with this matter.

7 7. Growth agrees that it will not appeal the decision of the California Court of Appeal,
8 Case no. B202359, described in Recital paragraph H above.

9 8. Growth agrees that it will not contest the validity of this Settlement Agreement on
10 any grounds, or in any forum.

11 9. Nothing in this Settlement Agreement is intended to alter or affect the decisions
12 and/or rulings in the litigation between the Parties described in Recital paragraphs E, G and H.

13 10. The Parties hereby acknowledge and agree that this Settlement Agreement is intended
14 to constitute a full, final and complete resolution of the Decision and the May 30, 2007 Accusation.
15 The Parties further acknowledge and agree that nothing contained in this Settlement Agreement shall
16 operate to limit the Commissioner's ability to assist any other agency, (county, state or federal) with
17 any prosecution, administrative, civil or criminal, brought by any such agency against Growth based
18 upon any of the activities alleged in the Decision and/or May 30, 2007 Accusation or otherwise.

19 11. The Commissioner, upon execution and delivery of the Settlement Agreement by the
20 Parties, shall cause this Settlement Agreement to be filed with the Office of Administrative
21 Hearings.

22 12. Each of the Parties represents, warrants, and agrees that it has received independent
23 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
24 Settlement Agreement.

25 13. Each of the Parties represents, warrants, and agrees that in executing this Settlement
26 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel
27 and/or representative. Each of the Parties further represents, warrants, and agrees that in executing
28 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of

1 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
2 party or any other person or entity to make any statement, representation or disclosure of anything
3 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in
4 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
5 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
6 Settlement Agreement.

7 14. This Settlement Agreement is the final written expression and the complete and
8 exclusive statement of all the agreements, conditions, promises, representations, and covenants
9 between the Parties with respect to the subject matter hereof, and supercedes all prior or
10 contemporaneous agreements, negotiations, representations, understandings, and discussions
11 between and among the Parties, their respective representatives, and any other person or entity, with
12 respect to the subject matter covered hereby. The provisions of this paragraph are not intended to
13 affect the settlement agreement entered into between the Parties in March 1999 in any manner.

14 15. In that the Parties have had the opportunity to draft, review and edit the language of
15 this Settlement Agreement, no presumption for or against any party arising out of drafting all or any
16 part of this Settlement Agreement will be applied in any action relating to, connected, to, or
17 involving this Settlement Agreement. Accordingly, the Parties waive the benefit of California Civil
18 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
19 language of a contract should be interpreted most strongly against the party who caused the
20 uncertainty to exist.

21 16. In the event of any dispute that may arise regarding this Settlement Agreement, the
22 prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

23 17. This Settlement Agreement may be executed in any number of counter-parts by the
24 Parties, and when each Party has signed and delivered at least one such counterpart to the other
25 Party, each counterpart shall be deemed an original and taken together shall constitute one and the
26 same Settlement Agreement.

27 18. Each Party warrants and represents that such party is fully entitled and duly
28 authorized to enter into and deliver this Settlement Agreement. In particular, and without limiting

1 the generality of the foregoing, each Party warrants and represents that it is fully entitled to enter into
2 the covenants, and undertake the obligations set forth herein.

3 19. Growth has read this Settlement Agreement and enters into same voluntarily and
4 without coercion.

5 20. Delivery of the executed Settlement Agreement shall be provided to each Party at the
6 following addresses:

7 Growth: Frederick M. Ray, Esq.
8 A Professional Corporation
9 770 The City Drive, Ste. 8100
Orange, California 92868-6927

10 Commissioner: Judy L. Hartley
11 Senior Corporations Counsel
12 Department of Corporations
13 320 W. 4th Street, Suite 750
Los Angeles, CA 90013-2344

14 IN WITNESS WHEREOF, the Parties hereto have approved and executed this Settlement
15 Agreement on the dates set forth opposite their respective signatures.

16 Dated: 1/7/09 PRESTON DuFAUCHARD
California Corporations Commissioner

17 By _____
18 ALAN S. WEINGER, Lead Corporations Counsel

19
20 Dated: 1/6/09 GROWTH RESOURCE GROUP, INC.

21 By _____
22 GARRY GLADSTONE, President

23 APPROVED AS TO FORM:

24
25 FREDERICK M. RAY, A PROFESSIONAL CORPORATION

26 By _____
27 FREDERICK M. RAY, Attorney for GROWTH
28 RESOURCE GROUP, INC.

1 PRESTON DuFAUCHARD
2 California Corporations Commissioner

3 By _____
4 JUDY L. HARTLEY
5 Senior Corporations Counsel